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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/350,474	07/09/1999	WILLIS L. WINSTROM	POC-99-1-1	8187

23531 7590 07/21/2003

SUITER WEST PC LLO  
14301 FNB PARKWAY  
SUITE 220  
OMAHA, NE 68154

EXAMINER
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LEVY, NEIL S

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 07/21/2003

LS

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1616

sufficient activity to treat within the purview of the veterinarian, this is within the range of the instant claims, as it is sufficient to provide desired antibiotic efficacy.

Claims 66-75, 87, 100-103 are rejected under 35 U.S.C. 102(b) as being anticipated by Klothen – 4,447,421.

The rejection of record is maintained.

Applicant's arguments are not persuasive, except for the oil, compaction issues.

Claims 5, 6, 60-62, 70-72, 80, 82, 83 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-46 of copending Application No. 10/390453. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims are directed to the same compositions, the amounts within the dosage ranges of the instant claims thus, obvious.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 3, 6, 7, 9, 10, 59, 61-65, 80, 82-84, are would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (703) 308-2412. The examiner can normally be reached on Tuesday through Friday 7 AM to 5:30 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees can be reached on (703) 308-4628. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.



Levy/LR  
July 7, 2003

**NEIL S. LEVY**  
**PRIMARY EXAMINER**